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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,346	12/17/2001	John Lipp	2063.001700	7997
23720	7590	08/11/2005	EXAMINER	
WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			MAI, TAN V	
		ART UNIT		PAPER NUMBER
				2193

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/023,346	LIPP, JOHN	
	Examiner	Art Unit	
	Tan V. Mai	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,11,12,17,18,20,22 and 24-35 is/are rejected.
- 7) Claim(s) 7-10,13-16,19,21 and 23 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-6, 11-12, 17-18, 20, 22, and 24-35 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Applicant's specification, pages 2-4, "DESCRIPTION OF THE RELATED ART".

Rejection grounds continue to be those set forth in the previous office action (Paper mailed 4/26/04, paragraph 2).

3. Applicant's arguments filed on 7-26-05 have been fully considered but they are not persuasive.

Applicant, in his remarks, argues that:

"Claims 1-6, 11: 12, 17-18, 20, 22, and 24-35 were rejected as anticipated under 35 U.S.C. 102 (a) by Applicant's description of related art at pp. 2-4 of the application as filed. The Office's position is that equations (11) - (14) and (19) are the same as equations (1)-(4), and so the claims must be anticipate. Applicant respectfully disagrees.

Applicant's specification, as filed, makes the same observation from p. 7, lines 21-22, where it states, "Note that the present invention employs the same starting point as does the known filtering technique discussed above." Note, however, that Applicant's specification continues, and distinguishes the present invention from the known filtering technique. Applicant's specification at p. 8, lines 8-16, more particularly, states, "However. The variance estimation of the measured quantity signal $z[n]$ is performed differently than in the known techniques above. The estimation of $R[n]$ is accomplished by filtering the square instantaneous prediction error $e[n]...$ which gives a smoothed estimate of the error variance $[n]$." This discussion also incorporates Eq. (18) and Eq. (19) which have no counterpart or analogue in Applicant's description of the related art.

Applicant notes that this distinction appears in the claims where they recite a "smoothed estimate of the measured quantity's signal" or some close variant. (cl. 1, lines 7-9; cl. 4, line 6; cl. 17, line 13; claim 24, lines 7-9; cl. 27, lines 6-7; cl. 30, line 7; cl. 33, line 6) There is no discussion of this limitation in Applicant's description of related art. Nor does the Office Action allege there is. Nor may such a teaching be fairly implied therefrom."(emphasis added).

With respect to the argument, the examiner carefully reviews the applied reference, the office action and the claimed invention.

First, the office action states "[a]pplicant's specification, pages 2-4, 'DESCRIPTION OF THE RELATED ART', discloses the claimed invention. It is noted that **equations (11)-(14) & (19)** of the 'DETAILED DESCRIPTION OF THE INVENTION' are **identical** to **equations (1)-(4) & (6)** of the 'DESCRIPTION OF THE RELATED ART'. It is also noted that the examiner believes the claimed 'smoothed estimate' feature refer to equation (19)." Second, because Eq. (18) is merely the square of Eq. (5), **equation (19)** is **identical** to **equation (6)**. Therefore, Eq (6) shows the claimed "smoothed estimate of the measured quantily's signal" or some close variant. Therefore, the rejection is still proper.

It is noted that the estimation of R[n] of Eq. (20) is different from the Eq. (7). However, such feature is NOT recited.

4. Claims 7-10, 13-16, 19, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan V. Mai whose telephone number is (571) 272-3726. The examiner can normally be reached on Mon-Wed and Fri. from 9:30am to 2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is:

Official (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.


Tan V. Mai
Primary Examiner